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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Equal Access and Interconnection
Obligations Pertaining to
Commercial Mobile Radio Services

CC Docket No. 94-54
RM-8012

To: The Commission

COMMENTS OF
SACO RIVER CELLULAR TELEPHONE COMPANY

SACO RIVER CELLULAR TELEPHONE COMPANY ("Saco River"), by its attorney, hereby submits its comments in response to the Notice of Proposed Rulemaking and Notice of Inquiry ("Notice") regarding the Commission's tentative proposal to impose equal access and interconnection obligations on commercial mobile radio service ("CMRS") providers.¹ Saco River responds to the Notice particularly with respect to the Commission's proposal to impose equal access obligations on all cellular carriers.

Saco River is the wireline cellular licensee for the Portsmouth-Dover-Rochester, New Hampshire NECMA. As such, Saco River is

¹ FCC 94-145, released July 1, 1994. The Notice called for comments to be filed by August 30, 1994 and reply comments to be filed by September 29, 1994. By Order dated August 11, 1994 (DA 94-877), the Commission extended the comment date until September 12, 1994 and the reply comment date until October 13, 1994.

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classified as a CMRS provider and thus will be directly affected by the adoption of rules in this proceeding.

Currently, the only cellular carriers that must provide equal access to all interexchange service providers are the cellular affiliates of Bell Operating Companies ("BOCs");² other cellular licensees and CMRS providers are not obligated to do so.³ In the Notice the Commission tentatively concludes, based on the record before it and the goals and policies enunciated in its CMRS decisions,⁴ that equal access obligations should be imposed on all cellular licensees. Notice at p. 4.

Saco River agrees with those parties commenting at earlier stages in this proceeding⁵ that equal access should not be imposed on cellular carriers.⁶ As those commenters pointed out, equal

2 See, e.g., *United States v. Western Electric Co., Inc.*, 1990-2 Trade Cas. (CCH) ¶ 69,177 (Sept. 12, 1990).

3 The obligation of BOC-affiliated cellular carriers to provide equal access to interexchange carriers flows from the consent decree that divested the BOCs from AT&T. *United States v. AT&T*, 552 F.Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 560 U.S. 1001 (1983) ("MFJ"). However, this obligation of BOC cellular affiliates does not arise from the MFJ directly, which imposes equal access only on the BOCs themselves, but from subsequent orders of the district court overseeing the MFJ.

4 See *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services*, 9 F.C.C.R. 1411 (1994) (Second Report and Order).

5 On June 2, 1992, MCI Telecommunications Corporation filed a petition for rulemaking proposing that the Commission require all cellular carriers to provide equal access. The Commission had asked for comments on the MCI Petition and has incorporated the comments and replies filed in response to that petition into the instant proceeding.

6 See, e.g., Comments of Cellular Telecommunications Industry Association (CTIA), McCaw Cellular Communications, Inc. (McCaw), (continued...)

access was required of BOCs and their cellular affiliates pursuant to the MFJ for reasons not relevant to mobile services in general, e.g., a history of anticompetitive behavior and control over bottleneck facilities.⁷ While the extension of equal access obligations to all cellular carriers now may offer some competitive benefits to interexchange carriers, a cost/benefit analysis, particularly for smaller and rural cellular carriers, does not favor the imposition of equal access. Indeed, the ability of Saco River and other similarly situated cellular carriers to purchase interexchange service in bulk at lower, volume discount rates would be hampered by equal access requirements.

Moreover, especially for the smaller and rural cellular carriers, technical constraints can make the cost of converting to equal access prohibitive and greatly outweighs the benefits for consumers. These cellular carriers will likely have to modify, or even replace, software in their switches to route traffic to customers' chosen interexchange carriers and may even have to replace switches as well.⁸ Equal access provision by these carriers might also entail changing the type of interconnection they receive from local exchange carriers, with its attendant costs. For smaller

6(...continued)

Comcast Cellular Communications, Inc. (Comcast), Centel Cellular Communications (Centel) on MCI Petition.

7 See, e.g., Comments of Comcast on MCI Petition at pp. 8-12; CTIA at pp. 4-5; Vanguard Cellular Systems, Inc. (Vanguard) at p. 3; McCaw at p. 6.

8 For example, Saco River's current network design allows operation at peak efficiency with its existing trunking facilities; equal access could require the acquisition of additional trunking facilities resulting in costs that are not easily justified.

carriers without sufficient customer bases to economically support the conversion, the provision of equal access could be a logistical and efficiency nightmare. Expenditures by cellular carriers to overcome these technical constraints simply do not make economic sense, particularly when there appears to be little demand for cellular equal access.⁹

Finally, the costs associated with providing customer education and establishing and monitoring the interexchange carrier selection process of presubscription, balloting and allocation can also be prohibitive in light of the uncertainty of demand, and the result could be similar to what Saco River's landline affiliate experienced in offering equal access.¹⁰

Saco River appreciates the Commission's goals of promoting consumer benefit and the public interest by encouraging customer choice and competition in all facets of the interexchange marketplace. Saco River respectfully submits, however, that the imposition of equal access obligations on all cellular carriers would not really serve to further these goals and instead would pose

9 See Comments on MCI Petition of Comcast at p. 3; see also comments of Ally, Inc., Cellular, Inc., Cellular 7 Partnership, et al. (Opposing Group) at pp. 4-6. The Opposing Group argued, and Saco River agrees, that customers are more concerned with cellular service features such as coverage area, roaming ability, signal quality and reasonable prices. Opposing Group Comments at pp. 4-5.

10 Saco River's affiliate, Saco River Telegraph & Telephone Company, an independent local exchange carrier in Maine, had conducted the presubscription and balloting process to provide equal access to its local exchange customers. Its customers overwhelmingly chose the interexchange carrier's service that the telephone company had previously provided or did not bother to respond at all.

considerable hardship on cellular carriers that outweighs any perceived benefit to consumers.

Respectfully submitted,

SACO RIVER CELLULAR TELEPHONE COMPANY

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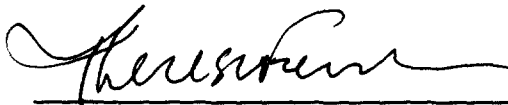
Dated: September 12, 1994

CERTIFICATE OF SERVICE

I, Theresa Fenelon, an attorney with the law firm of Pillsbury Madison & Sutro, hereby certify that I have on this 12th day of September, 1994, caused copies of the foregoing "COMMENTS OF SACO RIVER CELLULAR TELEPHONE COMPANY" to be hand-delivered to the following:

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